

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PETER J. MUNOZ, JR.,
Petitioner,

vs.

JAMES COX, *et al.*,
Respondents.

3:13-cv-00018-RCJ-WGC

ORDER

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254, by a Nevada state prisoner.

The matter has not been properly commenced because petitioner submitted incomplete financial paperwork. Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, petitioner must attach both an inmate account statement for the past six months and a properly executed financial certificate. Petitioner has failed to submit his inmate account statement. Without the complete printout showing daily account activity over the full six-month period, the Court is unable to assess whether the current balance on the financial certificate is representative of petitioner's ability to pay. The Court is unable to see, *inter alia*, the regularity and amount of any incoming funds as well as the

1 extent to which petitioner is making discretionary expenditures that instead could be applied to
2 payment of the filing fee.

3 Due to the multiple defects presented, the pauper application will be denied, and the present
4 action will be dismissed without prejudice to the filing of a new petition in a new action with a
5 pauper application with all required attachments. It does not appear from the papers presented that a
6 dismissal without prejudice would result in a promptly-filed new petition being untimely. In this
7 regard, petitioner at all times remains responsible for calculating the running of the federal limitation
8 period as applied to his case, properly commencing a timely-filed federal habeas action, and properly
9 exhausting his claims in the state courts.

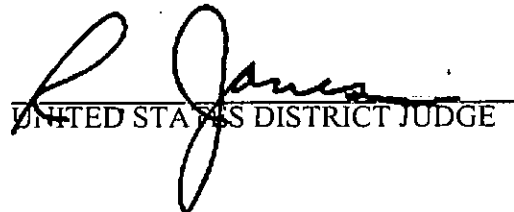
10 **IT THEREFORE IS ORDERED** that the application to proceed *in forma pauperis* (ECF
11 No. 1) is **DENIED** and that this action is **DISMISSED WITHOUT PREJUDICE** to the filing of a
12 new petition in a new action with a properly completed *in forma pauperis* application with all new –
13 and complete – financial attachments.

14 **IT FURTHER IS ORDERED** that a certificate of appealability is **DENIED**. Reasonable
15 jurists would not find the dismissal of the improperly-commenced action without prejudice to be
16 debatable or wrong.

17 **IT FURTHER IS ORDERED** that the Clerk of Court shall send petitioner two copies of an
18 application form to proceed *in forma pauperis* for incarcerated persons and a noncapital Section
19 2254 habeas petition form, one copy of the instructions for each form, and a copy of the papers that
20 he submitted (ECF No. 1).

21 **IT FURTHER IS ORDERED** that the Clerk shall enter final judgment accordingly.

22 Dated this 28th day of January, 2013.

23
24 
25 UNITED STATES DISTRICT JUDGE
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